

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

JAMES VINCENT BANKS,

Plaintiff(s),

v.

JOSEPH LOMBARDO, et al.,

Defendant(s).

Case No. 2:20-cv-00556-ART-NJK

**Order**

[Docket Nos. 62, 64]

Pending before the Court is Defendants' motion to compel discovery and for an award of expenses. Docket No. 62. No response has been filed.<sup>1</sup> For the reasons discussed below, the motion to compel is **GRANTED** and the request for an award of expenses is **DENIED** without prejudice.

The requests for production at issue were served on September 8, 2021. *See* Docket No. 62-1 at 10. Plaintiff has had more than ample time to respond to these requests, *see, e.g.*, Fed. R. Civ. P. 34(b)(2)(A) (responses to requests for production are generally due 30 days after service), and has advanced no opposition to the motion.<sup>2</sup> Moreover, the Court again makes clear that Plaintiff bears the responsibility to "manage his case (and existing legal supplies) to enable that

<sup>1</sup> Plaintiff filed a motion to extend the time to extend to May 6, 2022, the deadline to respond to the motion to compel. Docket No. 64. Defendants filed a response in opposition. Docket No. 67. Defendants have since filed a notice that the issue is now moot because the extended deadline Plaintiff seeks has also since expired. Docket No. 70. Given the circumstances, the Court will **GRANT** the motion to extend *nunc pro tunc*. Accordingly, the deadline for Plaintiff to oppose the motion to compel expired on May 6, 2022. Despite the passage of more than a month since that deadline expired, Plaintiff has not filed a responsive brief.

<sup>2</sup> The Court may grant a motion as unopposed when a responsive brief is not timely filed. Local Rule 7-2(d). The party opposing a motion to compel bears the burden of persuasion of showing why it should not be granted. *See, e.g., V5 Techs. v. Switch, Ltd.*, 334 F.R.D. 306, 309-10 (D. Nev. 2019).

1 the case advances in a reasonably expedient manner.” Docket No. 60 at 1. Accordingly, the  
2 motion to compel will be granted.

3 With respect to the motion for expenses, Defendants are correct that the Court is authorized  
4 to award expenses upon the granting of a motion to compel in certain circumstances. Fed. R. Civ.  
5 P. 37(a)(5)(A). Such an award of expenses is subject to important exceptions, including that the  
6 Court may consider whether a litigant’s indigent status would render an award of expenses unjust.  
7 *See, e.g., Murray v. Pac. Architects & Engrs.*, 2015 U.S. Dist. Lexis 157912, at \*3-4 (D. Nev.  
8 Nov. 20, 2015) (collecting cases). The Court in this instance will defer ruling on the request for  
9 expenses to assess whether Plaintiff complies with this order to respond to discovery. The Court  
10 **CAUTIONS** Plaintiff that it will be more inclined to award expenses if Plaintiff violates this order  
11 to respond to discovery. *See, e.g.,* Fed. R. Civ. P. 37(b)(2)(C).

12 For the reasons discussed above, the motion to compel is **GRANTED** and the request for  
13 an award of expenses is **DENIED** without prejudice. **Plaintiff must provide responses to the**  
14 **requests for production by July 7, 2022.**

15 IT IS SO ORDERED.

16 Dated: June 16, 2022

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20 Nancy J. Koppe  
21 United States Magistrate Judge  
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